# LEGISLATIVE SERVICES AGENCY
## OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

## FISCAL IMPACT STATEMENT

**LS 7703** | **NOTE PREPARED:** Jan 6, 2005
**BILL NUMBER:** SB 410 | **BILL AMENDED:**

**SUBJECT:** New Generation Tax Credits.

**FIRST AUTHOR:** Sen. Steele | **BILL STATUS:** As Introduced
**FIRST SPONSOR:**

**FUNDS AFFECTED:** X **GENERAL** | **IMPACT:** State
X **DEDICATED**
**FEDERAL**

**Summary of Legislation:** The bill provides that the Commission for Agricultural and Rural Development may certify taxpayers that invest in certain agricultural businesses as investor members. The bill also provides that an investor member is eligible for a tax credit equal to the lesser of: (1) 75% of the investor member's investment; or (2) $25,000. It limits the annual amount of credits available to certain capital projects. It also requires the Department of State Revenue to determine a method to allocate credits among investor members.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Department of State Revenue (DOR):* The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate this tax credit. These expenses presumably could be absorbed given the DOR's existing budget and resources.

*Indiana Department of Commerce (IDOC):* The bill requires the Indiana Commission for Agricultural and Rural Development to approve New Generation Processing Entities (NGPEs), and certify the type of entity in terms of capital investment and employment, for purposes of the tax credit. The bill also requires the Commission to determine eligibility for the tax credit by certifying taxpayers who are producer members of NGPEs, and certifying the taxpayer's investment in the NGPE. Under current statute, the IDOC must provide administrative assistance to the Commission. The IDOC should be able to meet these demands given its current budget and resources. The November 4, 2004, state staffing table indicates that the IDOC has 31 vacant full-time positions, including regional office positions. (Note: Under current statute, responsibility for certifying NGPEs presumably would be transferred to the Indiana Economic Development Corporation on July 1, 2005.)

**Explanation of State Revenues:** *Summary:* The bill establishes a credit against the Gross Retail and Use Tax, Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, or Insurance Premiums Tax liability for qualified taxpayers who make investments in New Generation Processing Entities (NGPEs). The precise annual revenue loss due to this bill is indeterminable. However, the bill limits aggregate credits that may be claimed each year to $6.0 M. The annual revenue loss could potentially begin in the second half of FY 2006 or FY 2007. The net revenue impact depends on the extent that collections from earnings and employment attributable to processing operations by NGPEs are less than or exceed the amount of credits claimed by taxpayers. However, if the processing operations would have occurred in the absence of the tax credit, the net impact would be the total credits claimed by taxpayers.

*Background:* The New Generation Tax Credit is equal to the lesser of: (1) 75% of investment by a qualified taxpayer in a NGPE during 2006 or subsequent years; or (2) $25,000. The tax credit may be claimed only by "investor members of an NGPE. The bill defines an investor member as a person that, beginning January 1, 2006, makes a capital investment in a NGPE. The capital investment may be cash or property, including an agricultural or horticultural commodity, livestock, livestock products, and commodities to produce renewable fuel. An NGPE is a business entity, other than a sole proprietorship, that owns or operates a facility located in Indiana that: (1) produces agricultural or horticultural commodities, livestock, or livestock products; or (2) produces biodiesel or ethanol and increases its production capacity each year beginning in 2007 in an amount determined by the Indiana Commission for Agricultural and Rural Development. NGPEs also include agricultural cooperatives. NGPEs must be approved by the Commission and must meet requirements for ownership and management by investor members. The bill limits the total credits allowed during a taxable year to $6.0 M. No more than $1.5 M of this total may be allowed for investment in "large capital projects; and no more than $3.0 M of this total may be allowed for investment in "employee qualified capital projects. Large capital projects are NGPEs having capital costs of at least $1.0 M. Employee qualified capital projects are NGPEs having at least 35 full-time employees and capital costs of at least $10.0 M.

The tax credit may not be claimed if the taxpayer also claims the existing ethanol production credit. The taxpayer may carry forward any unused credit amount from a taxable year to subsequent taxable years. The credit is not refundable and taxpayers are not eligible for carryback of unused credits. For pass through entities, the credit may be claimed by shareholders, partners, or members in proportion to their distributive income from the pass through entity. In addition, a taxpayer may transfer, sell, or otherwise convey tax credits to another taxpayer.

Revenue from the AGI Tax on corporations, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. Revenue from the AGI Tax on individuals is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Sales Tax revenue will be deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Since the tax credit is effective for investment beginning January 1, 2006, the fiscal impact could potentially begin in FY 2006 if taxpayers adjust their quarterly estimated payments. This also depends upon how quickly the Indiana Commission for Agricultural and Rural Development certifies NGPEs for purposes of the tax credit.

According to literature on *New Generation Cooperatives*, these entities are typically comprised of members who produce agricultural commodities. These members purchase shares of stock in the cooperative. The stock purchase creates a pool of capital that is used to finance the acquisition or construction of processing facilities for member agricultural commodities. The shares of stock also represent a predetermined annual amount of a commodity that the producer members must deliver to the cooperative. The members of the cooperative earn income from the sale of the processed commodities. Thus, they benefit from the value of the raw commodities as well as the value added by processing.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** Indiana Commission for Agricultural and Rural Development; Indiana Department of Commerce; Department of State Revenue; Indiana Economic Development Corporation.

**State Agencies Affected:**

**Local Agencies Affected:**

**Information Sources:** *New Generation Cooperatives: Case Study*, Illinois Institute for Rural Affairs; *Agriculture Innovation Center Missouri Department of Agriculture*, Innovations, Nov./Dec. 2001.

**Fiscal Analyst:** Jim Landers, 317-232-9869.